HONOURABLE SRI JUSTICE J. CHELAMESWAR

AND

HONOURABLE SRI JUSTICE G. BHAVANI PRASAD

W.P.No.15839 of 2006

DATE: 01.08.2006

Between:

M/s. N.V. Nageshwar Rao, represented by
Its Proprietor Mr. N.V. Nageswara Rao

…. Petitioner

And:

The Commercial Tax Officer, Suryaraopet,
Vijayawada and two others.

….Respondents

ORDER: (Per Hon'ble Sri Justice J. Chelameswar)

The writ petition has been filed with the following prayer:

> "to issue a Writ of Certiorari or any other appropriate writ or order or direction quashing the order of the third respondent in CCT's Ref. No. LV (2)/281/2006, dated 30.5.2006 as illegal, and arbitrary and restrain the first respondent from collecting the balance disputed tax of Rs.6,47,269/- out of total disputed tax of Rs.7,77,138/- for the assessment year 2001-2002 pending disposal of the appeal in T.A.No.1129 of 2005 before the Sales Tax Appellate Tribunal, Visakhapatnam."

The petitioner is a registered dealer on the rolls of the first respondent

under the Andhra Pradesh General Sales Tax Act, 1957, engaging business of execution of works contracts. For the assessment year 2001-2002, the first respondent-Commercial Tax Officer assessed the tax liability of the petitioner by his order dated 01.9.2004. Aggrieved by the said order, the petitioner carried the matter in appeal before the second respondent-Appellate Deputy Commissioner. The second respondent, after hearing the matter on 28.10.2004, passed an order dated 17.11.2004 remitting the matter to the first respondent, after recording certain findings. The details of which may not be necessary for the present writ petition. Aggrieved by the said order of remand, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal, Hyderabad in T.A.No.1129 of 2005, which was transferred to the new Sales Tax Appellate Tribunal Bench at Visakhapatnam. Along with the appeal, the petitioner moved an application before the third respondent seeking stay of collection of balance disputed tax of Rs.6,47,269/-. The third respondent passed an order dated 30.05.2006 dismissing the stay application of the petitioner. Hence, the present writ petition.

Heard the learned counsel for the writ petitioner and the learned Government Pleader for Commercial Tax.

In the circumstances, we are of the opinion that the matter can be disposed of at the stage of admission directing the first respondent not to take any coercive steps for recovery of the disputed tax which is the subject matter of the appeal before the Sales Tax Appellate Tribunal on condition of the petitioner deposits 50 percent of the disputed tax within a period of four weeks from today and the amount, if any, already paid shall be given credit to while collecting 50 percent of the amount of disputed tax.

The writ petition is, accordingly, disposed of. No costs.

J. CHELAMESWAR, J

G. BHAVANI PRASAD, J

Date: 01.08.2006

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